

Advance Parole for DACA Recipients in Removal Proceedings

- Individuals in removal proceedings, including those with final removal orders, may seek advance parole if the request meets the guidelines for advance parole consideration under DACA.
- A departure made while under a final order of removal triggers inadmissibility issues. Outreach will include warnings about these consequences.



VII. Responding to Requests to Review Certain Denials

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Module Objectives

The objective of this section is to provide a basic understanding of:

- SRM^T handling procedures while a DACA request is pending;
- How to respond to a request to review a denial through the SRM^T process; and
- The denial grounds that may be reviewed through the SRM^T process.



SRMT for Pending DACA Request

Change of Address:

- Change address on Form I-821D;
- Change address on Form I-765;
- Check SNAP. If an appointment has been scheduled, change the address and reprint the notice. Before mailing the notice, make a photo copy and forward to the file with a date stamp indicating the date the address change was made; and
- Complete SRMT and send response to requestor that address change has been made.

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SRMT for Pending DACA Request (Continued)

- Corrections - requests to change or correct any type of biographical information, such as name or date of birth:
- Every SRMT needs to be reviewed, as in some cases the correction is actually a Request for an address change based upon a typographical error on the original receipt notice. If this is the case, follow the directions for handling a change of address.
- If the correction is related to a biographical information capture:
 - Review SRMT – do not make any biographical changes in the system.
 - Complete SRMT using language below as a response:

This information has been forwarded to your file. The officer reviewing your request for deferred action will make any appropriate changes to your filing at that time. Thank you for your inquiry.
 - Print the completed SRMT and forward to the file using the special cover sheet . Attach a reference screen print of the I-821D and the I-765 .

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Decisions

Form I-821D approvals will be issued on a Form I-797C, Notice of Action. See sample to the left.

The Form I-765 approval will be issued via the standard process which includes the EAD and the Form I-797D insert.

REF ID: N9P7A7 - 5000-02		CASE TYPE: I021 / T1-021D	
RECEIVED DATE	RECEIVED DATE	REMITTANT NAME	REMITTANT NAME
AUGUST 20, 2012	AUGUST 20, 2012	APPLICANT: A123 666 666	LASTNAME, FIRSTNAME M.
NOTIFICATION DATE	NOTIFICATION DATE	PAGE 1 1 of 1	
		Notice Type: Approval Notice Valid from 08/20/2012 to 02/02/2013	
<p>This country notice is to advise you, of certain actions on this date. The official notice you were mailed to has authorized representations, this notice is included in the notice as a fact of the official notice.</p> <p>This notice is to inform you regarding U.S. Citizenship and Emigration services' (hereinafter "the USCIS") decision on your Form I-911D, Application for Naturalization for Children Abroad.</p> <p>USCIS, in the exercise of its prosecutorial discretion, has decided to defer action in your case. Deferred action is an option of prosecutorial discretion by USCIS not to pursue the removal of an individual from the United States for a specific period. Deferred action does not affect or affect the individual's status.</p> <p>Under this decision, this action will result in a stay for 2 years from the date of this notice.</p> <p>This form does not constitute employment authorization, nor may it be used in place of employment authorization documents issued by USCIS, nor will it affect your employment authorization documents separately issued. Subsequent criminal convictions, or guilty, will affect your employment authorization documents separately issued. This notice does not provide permission to travel outside of the United States.</p> <p>You are advised to notify USCIS at your change of address. You may see the alien's change of address card, Form I-410, to report a change of address. This form may be found at www.uscis.gov, there is a fee for this change of address form.</p> <p>USCIS and the U.S. Department of Homeland Security (DHS) reserve the right to notify the information submitted in this request, unless specifically documented to indicate otherwise, with applicable laws, rules, regulations, and other administrative documents used for verifying information may include, but are not limited to the review of radio, telephone and internet, contacts by correspondence, the interests or statements, and site inspections of facilities and establishments. Information detailed during the course of the investigation will be used to determine whether continuation of deferred action or removal proceedings are appropriate, for example, if the individual continues to commit acts of terrorism or other conduct for consideration of deferred action or if the individual's interests or actions in the course of this investigation are deemed to be a threat to national security. Individuals or organizations may be subject to administrative or criminal penalties for aiding and abetting individuals or organizations that are or have been designated as terrorist organizations.</p>			



Please see the back of this page for important information.

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Decisions (Continued)

- A denial template has been created for DACA and is included in the DACA SOP. This DACA denial template will be loaded to all centers' common drive/correspondence generator. Use of this denial template is mandatory. Individualized, locally created denials shall not be used. When an officer encounters an issue for which there is no check box on the denial template, the officer must work through his/her supervisor to identify the issue for SCOPS so that the template can be amended.

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Decisions (Continued)

Form I-821D denial template

Appendix F

NOTICE OF DENIAL OF CONSIDERATION OF DEFERRED ACTION FOR CITIZENSHIP ARRIVALS, FORM I-821D

USCIS has evaluated your Form I-821D, Consideration of Deferred Action for Citizenship Arrivals. No one(s) indicated below, USCIS has, in its reasonable discretion, determined that it will not grant action to your request. Accordingly, your Form I-821D Application for Employment Authorization, has also been denied. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. You may see this as a "spoil" or "random" to recognize/encourage that a decision.

- You are under the age of sixteen (15) and are not in removal proceedings, do not have a valid removal notice, or do not have a voluntary departure order.
- You have failed to establish that you came to the United States under the age of sixteen (16).
- You have failed to establish that you were under age 31 on June 15, 2012.
- You have failed to establish that you have continuously resided in the United States since June 15, 2007, each time class of living your request.
- During your period of residence in the United States, you had crew or crew status or had held a position as "hired, casual, and temporary."
- You have failed to establish that you were present in the United States on June 15, 2012 and that you were under your present status in the United States on that date.
- You have failed to establish that you are currently in school, have a placement or obtained a certificate of enrollment from high school, have obtained a general education certificate or Armed Forces of the United States.
- You have been convicted of a felony or a significant misdemeanor, or you have been convicted of three or more misdemeanors, or you do not warrant a favorable exercise of prosecutorial discretion because of public safety concerns.
- You do not warrant a favorable exercise of prosecutorial discretion because of other concerns.
- You have failed to pay the fee for your concurrently filed Application for Employment Authorization, Form I-765, and/or your biometric fee, because your payment has been rejected for insufficient funds and you have failed to correct the discrepancy within the allotted time.
- You failed to agree for the release of information at an Article 33a Section 347(e) interview.
- You failed to respond to a Request for Evidence or Notice of Intent to Deny within the time presented.
- You have submitted your Form I-821D, Consideration of Deferred Action for Citizenship Arrivals because you began to live in the United States while the form was pending.



Requests for Review

DACA requestors cannot file a Motion to Reopen or Reconsider and cannot appeal denial of their Form I-821D. However, DACA requestors may request review of certain denials using the Service Request Management Tool (SRMT) process. Categories that may be reviewed fall under administrative error. There is no review through the SRMT process of substantive/discretionary denials.

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Requests to Review (Continued)

Administrative Errors Related to Material Facts:

- The denial of the DACA request on the grounds that the requestor did not come to the United States prior to reaching his/her 16th birthday, but the evidence submitted at the time of filing shows that the requestor did, in fact, arrive before the required age; or
- The denial of the DACA request on the grounds that the requestor was under age 15 at the time of filing, but not in removal proceedings, but the evidence submitted at the time of filing and/or systems checks show that the requestor was, in fact, in removal proceedings when the DACA request was filed; or
- The denial of the DACA request on the grounds that the requestor was not under the age of 31 on June 15, 2012, but the evidence submitted at the time of filing shows that the requestor did not exceed the upper age limit on June 15, 2012; or
- The denial of the DACA request on the grounds that the requestor was not in an unlawful immigration status as of June 15, 2012, but the evidence submitted at the time of filing shows that the requestor was, in fact, in an unlawful status on June 15, 2012; or
- The denial of the DACA request on the grounds that the requestor was not physically present in the United States on June 15, 2012, up through the date of filing, but the evidence submitted at the time of filing establishes that the requestor was, in fact, present.



History Action Codes

The following special HACs will be used to track the requests for review through the SRMT process and must be used when responding to requests:

- **SRMT DACA:** When providing an Interim Response to a Request Via SRMT to Review a Denied DACA request.
- **SRMT DACA Reopened on Service Motion:** When reopening a Denied DACA Request on Service Motion.
- **SRMT DACA Approved on Service Motion:** When Approving a Denied DACA Request that has been Reopened on Service Motion.
- **SRMT DACA Denial Affirmed:** When Affirming the Denial of a DACA Request that has been Reopened on Service Motion.

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Standard Responses and Templates

Standard responses, to include some interim responses, have been developed to inform the requestor that his/her denial has been reopened on a service motion and that the denial is correct or incorrect.

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Responding to Requests to Review

Requestors will be provided 30 days from the date of denial to request review of the denial.

When a request is received at the call center, TIER 1 personnel will review the date of denial in CRIS.

If the request is 30 days beyond the date of the denial, the call center will not process such request and instead will issue the following notification:

- You did not request a review of the denial of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals within the required 30 days. Therefore, we will not be able to process your request. However, you may file a new Form I-821D concurrently with a new Form I-765, Application for Employment Authorization, with a new fee.



Responding to Requests to Review (Continued)

Administrative Errors Related to Material Facts:

- The denial of the DACA request on the grounds that the requestor did not come to the United States prior to reaching his/her 16th birthday, but the evidence submitted at the time of filing shows that the requestor did, in fact, arrive before the required age; or
- The denial of the DACA request on the grounds that the requestor was under age 15 at the time of filing, but not in removal proceedings, but the evidence submitted at the time of filing and/or systems checks show that the requestor was, in fact, in removal proceedings when the DACA request was filed; or

Step	Action
1	Request the file.
2	Respond to the SRMT with an interim response.
3	Update C3 (with HAC code), indicating SRMT DACA.
4	Reopen the I-821D and I-765 on Service Motion and update C3 with the HAC Codes SRMT DACA Reopened on Service Motion for each form.
5	Route the file to the reviewing ISO.



Responding to Requests to Review (Continued)

Administrative Errors Related to Material Facts (cont.):

Step 6	Action
If the denial...	Then...
Was correct,	<ul style="list-style-type: none"> The ISO will route the filing to the SISO for concurrence. The SISO will concur or not concur and route back to the ISO for appropriate systems updating. If SISO concurs, the ISO updates C3 with HAC code SRMT DACA Denial Affirmed and respond to the DACA requestor using the appropriate DACA SRMT call-up in Appendix G of the DACA SOP. If SISO does not concur, follow the instructions below (was not Correct)
Was not correct,	<ul style="list-style-type: none"> The SISO routes the filing to the ISO for review. The ISO approves Forms I-821D and I-765. The ISO updates C3 with HAC code SRMT Approved on Service Motion for each to show that the case was approved on Service Motion.
Was not correct, but other reasons for denial still exist,	<ul style="list-style-type: none"> The ISO will route the filing to the SISO for concurrence. If the SISO concurs, the ISO will re-deny the case. The ISO updates C3 with the HAC code SRMT DACA Denial Affirmed for each form. The ISO produces a new denial using the SRMT denial template found in Appendix H of the DACA SOP.



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Responding to Requests to Review (Continued)

Requestor did Appear to Have Biometrics Collected at a USCIS ASC:

- Follow the steps below when an SRMT is filed due to a claimed administrative error related to the requestor's biometrics collection.

Step	Action
1	Review the electronic systems to see whether the requestor had his/her biometrics taken. Request the A-file (if needed).
2	Reopen Forms I-821D and I-765 on Service Motion.
3	Update C3 with HAC codes SRMT DACA Reopened on Service Motion, for both forms.
4	Send an interim SRMT response using SRMT DACA 1 call-up.



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